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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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02/23/2004

Richard T. Evers

0638

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7590

11/02/2006

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EXAMINER

RAMPURIA, SATISH

ART UNIT

PAPER NUMBER

2191

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/785,579	EVERS, RICHARD T.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Satish S. Rampuria	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

***Response to Amendment***

1. This action is in response to the RCE filed on August 8, 2006.
2. The objection to claims 1 and 11 due to acronym is withdrawn in view of applicant's amendment.
3. The rejections under 35 U.S.C. §112 second paragraph to claims 1-20 is withdrawn in view of applicants amendment/comments.
4. Claims amended by the applicants: 1, 5, 5-12, 14, 16, 19 and 20-21.
5. Claims pending in the application: 1-21.
6. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 8, 2006 has been entered.

***Response to Arguments***

7. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the document Phishing in Alternate Data Streams published by Berghel et al. (hereinafter, Berghel) published in Feb 6, 2004 in view of US Patent No. 6,744,450 to Zimniewicz et al. (hereinafter, Zimniewicz).

**Per claim 1:**

Berghel discloses:

- A method for secure installation and operation of software, said method comprising:
- employing an NT File Structure logical volume (page 1 section Alternate Data Stream "NTFS the "primary" data stream...");
- employing an installer; writing a Primary Data Stream file to said NT File Structure logical volume from said installer (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)");

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- associating data with said Primary Data Stream file (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)"); and
- writing said associated data to said NT File Structure logical volume as an Alternate Data Stream file from said installer (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)").

Berghel does not explicitly disclose installer.

However, Zimniewicz discloses in an analogous computer system *installer* is used to install the applications (See FIG. 3, 4b, 4c and related discussion...").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of having an *installer* to install the application as taught by Zimniewicz into the method of installation of ADS PDS files as taught by Berghel. The modification would be obvious because of one of ordinary skill in the art would be motivated to have installer to provide the user a logical and easy to understand way that allow them to clearly see the state of the components affected, and what actions will be performed as suggested by Zimniewicz (col. 3, lines 5-22).

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The limitation regarding secure installation and operation of software in the preamble is not given any patentable weight because the body of the claim does not recite any limitations related to secure installation and operation of software.

**Per claim 2:**

The rejection of claim 1 is incorporated, and further, Berghel does not explicitly disclose selecting said data from the group comprising an installation log, an application configuration file, an error log, help information, and database information.

However, Zimniewicz discloses in an analogous computer system selecting said data from the group comprising an installation log (col. 8, lines 45-47 "error log indicating why the install cannot proceed"), an application configuration file (col. 7, lines 30-33 "install... pre-configured by the suite owner"), an error log (col. 8, lines 45-46 "...written out to the error log..."), help information (col. 6, lines 41-42 "...a setup database file..."; the database file is could be a help file as well since computer stores the help file into a database, emphasis added), and database information (col. 6, lines 41-42 "...a setup database file...").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of selecting data from the various sources as taught by Zimniewicz into the method of installation of ADS PDS files as taught by Berghel. The modification would be obvious because of one of ordinary skill in the art would be motivated to have various types of files to provide the user a logical and easy to understand way that allow them to clearly see the state of the

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components affected, and what actions will be performed as suggested by Zimniewicz (col. 3, lines 5-22).

**Per claim 3:**

The rejection of claim 1 is incorporated, and further, Berghel discloses:

- writing, reading or manipulating said Alternate Data Stream file from an application program after said writing said associated data (page 3, "Next, we'll attach an ADS to an empty file: C:\...\test>echo "this is the first ADS associated with file1.txt"> file1.txt:first\_ads.txt..." and page 9, section URL Pearls "Windows utility that is ideal for ADS manipulation is <cp.exe>").

**Per claim 4:**

The rejection of claim 1 is incorporated, and further, Berghel discloses:

- employing as said Primary Data Stream file an executable file (page 4, section Phishing and Executable Streams "ADSs may contain anything... most interesting type of "anything" is the binary executable...").

**Per claim 5:**

The rejection of claim 1 is incorporated, and further, Berghel discloses:

- creating a Primary Data Stream directory chain (page 2, "will create a new directory, <test>");

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- writing said Primary Data Stream directory chain to said NT File Structure logical volume from said installer (page 2, "will create a new directory, <test>");
- writing said Primary Data Stream file to said Primary Data Stream directory chain in said NT File Structure logical volume from said installer (page 2, "since the PDSname field is null, <ads0.txt> is by default associated with the subdirectory name in the MFT. Directories in Windows are themselves files that reference other files");
- associating said data with said Primary Data Stream directory chain or said Primary Data Stream file by creating and closing said Alternate Data Stream file (page 2, "since the PDSname field is null, <ads0.txt> is by default associated with the subdirectory name in the MFT. Directories in Windows are themselves files that reference other files" and page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)"); and
- installing said associated data to said NT File Structure logical volume as said Alternate Data Stream file from said installer (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)").

**Per claims 6 and 7:**

The rejection of claim 5 is incorporated, and further, Berghel disclose:



- employing an installation file comprising said Primary Data Stream file, said Alternate Data Stream file (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)"), installation instructions, said Primary Data Stream directory chain (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)" and page 2, "since the PDSname field is null, <ads0.txt> is by default associated with the subdirectory name in the MFT. Directories in Windows are themselves files that reference other files").

Berghel does not explicitly disclose End User License Agreement.

However, Zimniewicz discloses in an analogous computer system End User License Agreement (col. 8, lines 26-30 "the UI Manager 91 displays start up screens to the user during this stage, including Welcome, Name/Organization, Password, product identification (PID), and end user license agreement (EULA) screens").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of comprising an End User License Agreement as taught by Zimniewicz into the method of installation of ADS PDS files as taught by Berghel. The modification would be obvious because of one of ordinary skill in the art would be motivated to use an End User License Agreement before installation to permit the right user to install the custom installation as suggested by Zimniewicz (col. 3, lines 14-22).

**Per claim 8:**

The rejection of claim 1 is incorporated, and further, Berghel discloses:

- employing as said associated data first data (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)"); employing as said Alternate Data Stream file a first Alternate Data Stream file; employing second data (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)");
- associating said second data with said Primary Data Stream file (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)"); and
- writing said associated second data to said NT File Structure logical volume as a second Alternate Data Stream file from said installer (page 1 Alternate Data Stream "large number... alternate data stream (ADSs)... associated with... primary data stream (PDS)").

**Per claim 9:**

The rejection of claim 1 is incorporated, and further, Berghel discloses:

- displaying said associated data from said Alternate Data Stream file in said NT File Structure logical volume (Figure 1 and related discussion).

**Per claim 10:**

The rejection of claim 1 is incorporated, and further, Berghel discloses:

- defining in said installation file a Primary Data Stream directory chain, said Primary Data Stream file, said Alternate Data Stream file, and at least one information file (page 4, section Phishing and Executable Streams “ADSs may contain anything... most interesting type of “anything” is the binary executable...”);
- displaying said at least one information file from said installation file (page 3, Figure 1 and related discussion);
- creating said Primary Data Stream directory chain in said NT File Structure logical volume (page 2, “will create a new directory, <test>”);
- copying said Primary Data Stream file from said installation file to said Primary Data Stream directory chain in said NT File Structure logical volume (page 2, “since the PDSname field is null, <ads0.txt> is by default associated with the subdirectory name in the MFT. Directories in Windows are themselves files that reference other files”); and
- copying said Alternate Data Stream file from said installation file to said Primary Data Stream directory chain in said NT File Structure logical volume (page 3, “Next, we’ll attach an ADS to an empty file: C:\...\test>echo “this is the first ADS associated with file1.txt”> file1.txt:first\_ads.txt...” and page 9, section URL Pearls “Windows utility that is ideal for ADS manipulation is <cp.exe>”).

Berghel does not explicitly disclose installer.

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However, Zimniewicz discloses in an analogous computer system *installer* is used to install the applications (col. 8, lines 45-47 “error log indicating why the install cannot proceed”), an application configuration file (See FIG. 3, 4b, 4c and related discussion...”).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of having an *installer* to install the application as taught by Zimniewicz into the method of installation of ADS PDS files as taught by Berghel. The modification would be obvious because of one of ordinary skill in the art would be motivated to have installer to provide the user a logical and easy to understand way that allow them to clearly see the state of the components affected, and what actions will be performed as suggested by Zimniewicz (col. 3, lines 5-22).

**Claims 11, 12, 14-16 and 19-20** are the system claim corresponding to method claims 1, 3-5, 9 and 10 respectively, and rejected under the same rational set forth in connection with the rejection of claims 1, 3-5, 9 and 10 respectively, above.

**Claims 13, 17 and 18** are the system claim corresponding to method claims 2, 6 and 7 respectively, and rejected under the same rational set forth in connection with the rejection of claims 2, 6 and 7 respectively, above.

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**Claim 21** is the computer product claim corresponding to method claim 1 and rejected under the same rational set forth in connection with the rejection of claim 1, above.

### **Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Satish S. Rampuria** whose telephone number is **(571) 272-3732**. The examiner can normally be reached on **8:30 am to 5:00 pm** Monday to Friday except every other Friday and federal holidays. Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: 571-272-2100**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wei Y. Zhen** can be reached on **(571) 272-3708**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

  
WEI ZHEN  
SUPERVISORY PATENT EXAMINER

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Satish S. Rampuria  
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Art Unit 2191